

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE PROCTER & GAMBLE COMPANY,

Plaintiff,

- against -

PLAYTEX PRODUCTS, INC.,

Defendant.

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x

08 Civ. 01532 (WHP)

Notice of Motion

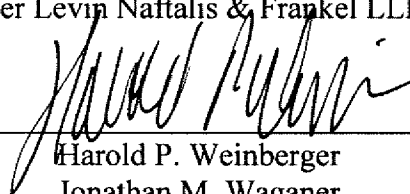
Please take notice that, upon the accompanying Declaration of Harold P. Weinberger, dated May 1, 2008, and exhibits annexed thereto, plaintiff's Statement Pursuant to Local Rule 56.1, and plaintiff's Memorandum in Support of its Motion for Summary Judgment, plaintiff The Procter & Gamble Company ("P&G") will move this Court before the Honorable William H. Pauley, III, at the Daniel Patrick Moynihan United States Courthouse for the Southern District of New York, 500 Pearl Street, New York, New York 10007, on the 11th day of July, 2008, at 11:00 a.m., or as soon thereafter as counsel can be heard, for an Order pursuant to Fed. R. Civ. P. 56, granting P&G summary judgment (i) on the First Claim for Relief in the Amended Complaint for a declaration that defendant Playtex Products, Inc. ("Playtex") is precluded by *res judicata* from challenging any advertising claim by P&G that its Tampax Pearl tampons provide superior leakage protection compared to Playtex's Gentle Glide tampons, based on a Memorandum and Order rendered by the Court on February 6, 2008 holding that such a claim is not false or misleading, (ii) dismissing the counterclaim asserted by Playtex in this

action on the same ground, and (iii) and granting P&G such other and further relief as the Court deems just and proper.

Dated: New York, New York
May 1, 2007

Kramer Levin Naftalis & Frankel LLP

By: _____


Harold P. Weinberger
Jonathan M. Waganer
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